Claims 13, 14 and 21 are rejected as indefinite for recitation of the term "an immunologically functional derivative". Applicants respectfully point out that dependent Claim 21 does not recite this language, but Claim 20 does. Accordingly, Applicants assume that the Examiner meant to reject Claim 20 and have amended that claim accordingly. Claims 13, 14 and 20 have been amended to eliminate this language, and in the case of Claims 13 and 14, have added certain language that describes the functional attributes of the instant invention that define the scope of the instant invention. Moreover, these amendments also address the Examiner's rejection of Claims 13 and 14 for recitation of the term "a safe and effective amount of a pharmaceutical composition".

Applicants have invented a method of preventing or treating infection caused by Varicella Zoster virus that was heretofore unappreciated. That is, Applicants have discovered that the IE63 protein of Varicella Zoster virus is a viable target for immune intervention to prevent or treat infection by this virus. Accordingly, one skilled in this art, armed with the information provided in Applicants' specification, can now develop appropriate compositions suitable for use in the instant invention. The Applicants consider that their invention is a method for preventing or treating Varicella Zoster infection by inducing an immune response that targets the IE63 protein. The instant claims specifically point out and distinctly claim the methods that embody what Applicants consider to be their invention. To be clear, Applicants consider their invention to be a method for preventing or treating a disease by targeting a specific protein; for purposes on the instant application and pending claims, particular compositions of matter for practicing this invention are not claimed and are therefore do not embody the instant invention. Accordingly, Applicants assert that the claims are clear and distinct, and respectfully request withdrawal of the 35 U.S.C. §112, second paragraph rejection.

Regarding the rejection based on the term "a safe and effective amount of a pharmaceutical composition", Applicants have amended the claims to more precisely define the nature of compositions that are useful in the claimed methods by reciting that the compositions induce an immunoprotective response without significant, adverse side effects. Support for this language may be found in the specification at page 2, line 31 to page 3, line 1. Further explanation is found in the lines immediately following this language on page 3. Applicants respectfully request withdrawal of the 35 U.S.C. §112, second paragraph rejection of Claims 13 and 14.

Applicants wish to thank the Examiner for her careful review of the specification, and hereby amend Claim 16 to correct the defect therein pertaining to antecedent basis.

Claims 13-16 and 20 stand rejected under 35 U.S.C. §102(b) as anticipated by Nader et al. Applicants have amended the claims as suggested by the Examiner, and respectfully assert that these amendments render the claims novel in view of the prior art. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §102(b) rejection.

Attached hereto is a marked-up version of the changes made to the claims by the instant amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,

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Version with markings to show changes made

13. A method of treating a patient suffering from or susceptible to Varicella Zoster virus infection, comprising administering to a patient [a safe and effective amount of] a pharmaceutical composition comprising an isolated Varicella Zoster Virus IE63 protein or [an immunologically functional] a fragment or derivative thereof and a pharmaceutically acceptable excipient, wherein the composition induces an immunoprotective response without significant, adverse side effects.

14. A method of treating a patient suffering from or susceptible to Varicella Zoster virus infection, comprising administering to a patient [a safe and effective amount of] a pharmaceutical composition comprising [a] an isolated nucleic acid encoding IE63 or [an immunologically functional] a fragment or derivative thereof, wherein the composition induces an immunoprotective response without significant, adverse side effects.

16. A method of treating a patient suffering from or susceptible to Varicella Zoster virus infection as claimed in claim 15, wherein the [second Varicella Zoster protein is] other VZV antigens are selected from the group, gpI, gpII, gpIII, gpIV, gpV or IE62 or immunological functional derivative thereof.

20. A method of producing a pharmaceutical composition comprising [a] an isolated Varicella Zoster virus IE63 protein or fragment or derivative thereof, or an isolated nucleic acid encoding a Varicella Zoster virus IE63 protein or fragment or derivative [or immunologically functional derivative] thereof, comprising mixing said protein or fragment or derivative thereof or said nucleic acid [or derivative] with a pharmaceutically acceptable excipient.